

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

NO.5:09-CR-00302-1FL(4)

UNITED STATES OF AMERICA	)	
	)	NOTICE OF EXPERT
v.	)	OPINION TESTIMONY
	)	AND QUALIFICATIONS
JONATHAN LEIGH SULLIVAN	)	

The United States of America, by and through the United States Attorney for the Eastern District of North Carolina, pursuant to Fed. R. Crim Pr. 16(a)(1)(G), hereby provides notice to the defendant of the expert opinion testimony and qualifications of the following individual in the above-referenced matter:

1. It is anticipated the government will call North Carolina State Bureau of Investigation Special Agent Eric R. Hicks who examined the defendant's computers, camera and related media in this matter. The government believes that Agent Hicks' testimony will involve his technical and specialized knowledge regarding the examination of computers and electronic media under Federal Rule of Evidence 702.

2. The witness will be asked to explain his training and background, the nature of the examination that he undertook of the computers and related media, and the methods and/or software used to assist him in the examination. Thus, the witness will be more in the nature of a fact witness explaining how certain evidence was located.

3. The government is prepared to present the evidence pursuant to

Federal Rule of Evidence 702 and the requirements of the Supreme Court in *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993) and *Kumho Tire Company, Ltd. v. Carmichael*, 526 U.S. 137 (1999). The government, however, emphasizes that except to the extent that he is testifying about his own role in the present case, the witness will be offered only for his technical and specialized knowledge in the area of computer examination, not, for example, for expertise in the field of hardware or software development.

4. The defendant has been provided the reports and data recovered from the defendant's computers and related media which the government believes adequately summarizes the nature of the examiners' testimony as required under Federal Rule of Criminal Procedure 16. Further, a copy of the qualifications of Agent Hicks have been provided to defense counsel. The defendant should review the aforementioned materials and advise as to whether any further information is needed to adequately prepare for trial.

Respectfully submitted this 19<sup>th</sup> day of July, 2010.

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United States Attorney

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CERTIFICATE OF SERVICE

This is to certify that I have this 19<sup>th</sup> of July 2010, served a copy of the government's notice of expert opinion testimony and qualifications upon the defendant in this action by electronically filing the foregoing with the Clerk of court using the CM/ECF system which will send notification of such filing to:

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